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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,123	10/25/2005	Gert Joly	L0006/US	8388

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EXAMINER

EGWIM, KELECHI CHIDI

ART UNIT	PAPER NUMBER
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1796

NOTIFICATION DATE	DELIVERY MODE
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07/08/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

kratonip@kraton.com

DETAILED ACTION

Election/Restrictions

1. This application contains claims 22-33, drawn to an invention nonelected with traverse in the reply filed on 11/10/2008, for reason cited in previous actions. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 102/103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 11-21 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, 35 U.S.C. 103(a) as being unpatentable over Ouhadi or Zhang et al., for reason cited in the previous action.

4. Claims 11-21 are rejected under 35 U.S.C. 102(a or e) as being anticipated by or, in the alternative, 35 U.S.C. 103(a) as being unpatentable over Varma, for reason cited in the previous action.

Response to Arguments

5. Applicant's arguments filed 04/14/2009 have been fully considered but they are not persuasive.

6. Regarding Ouhadi, in response to applicant's argument that the reference fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., **polar** styrene block copolymer) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Further the S-(I/B)-S or [S-(I/B)]-X-(B/I)-S structures recited in claim 11 are clearly **not** polar, as is evident from the structures. It is unclear where applicant is deriving the argued polarity for these structures.

Also, "from 0 to 10wt%" means the plasticizing oil is optional, as it may be present at 0 wt. percent. Prior art failing to teach this component is not removed as anticipatory prior art.

7. As stated in the previous action, while Ouhadi or Varma may be silent with regard the Tg of the butadiene/isoprene block, it remains reasonable that the butadiene/isoprene blocks in the styrene block copolymers of the prior art would possess the presently claimed properties since the composition of the prior art block copolymers are essentially the same as the claimed composition and the USPTO does

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not have at its disposal the tools or facilities deemed necessary to make physical determinations of the sort. In any event, an otherwise old composition is not patentable regardless of any new or unexpected properties. In re Fitzgerald et al, 619 F.2d 67, 205 USPQ 594 (CCPA 1980). See MPEP § 2112 - § 2112.02.

Even if assuming that the prior art references do not meet the requirements of 35 U.S.C. 102, it would still have been obvious to one of ordinary skill in the art, at the time the invention was made, to arrive at the same inventive composition because the disclosure of the inventive subject matter appears within the generic disclosure of the prior art.

8. Regarding Zhang et al. and Varma, it is well settled that anticipatory teachings are not limited to any particular embodiment/example. In re Boe, 148 USPQ 507 (CCPA 1966). In the first paragraph of page 16, Zhang et al. clearly teach the styrene-olefin-styrene tri-block copolymers to include styrene-isoprene/butadiene-styrene (S-IB-S). In ¶ 34, Varma clearly teach styrene-diene-styrene tri-block copolymers wherein the “mid-block” is preferably “isoprene/butadiene” (S-IB-S).

Contrary to applicant’s arguments, disclosed examples and preferred embodiments (even if the embodiments tested by appellant were preferred) do not constitute a teaching away from a broader disclosure. In re Susi, 440 F.2d 442, 169 USPQ 423 (CCPA 1971). The claimed composition with the S-IB-S block polymer is still taught by both Zhang et al. and Varma. This is clear.

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9. As with Ouhadi above, in response to applicant's argument that Zhang et al. fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "substantially pure styrene or mixtures comprising at least 95 wt % of styrene ... and substantially pure butadiene or mixtures comprising at least 95 wt % of butadiene") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

10. Finally, the de-tackifier in Varma is not excluded by the claimed composition "comprising" the recited components.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Kelechi C. Egwim whose telephone number is (571) 272-1099. The examiner can normally be reached on M-T (7:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dr. Kelechi C. Egwim/
Primary Examiner, Art Unit 1796

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